

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MARK DRURY,

Plaintiff,

v.

OFFICER BARNEY #11095, OFFICER
FITZGERALD #5084, OFFICER FRAPOLLY
#198, and the CITY OF CHICAGO,

Defendants.

Judge Kendall
Magistrate Judge Cole

No. 08-cv-00015

JOINT STATUS REPORT

NOW COMES the Plaintiff, by and through Erica Faaborg of the Law Offices of Blake Horwitz, and the Defendants, by and through their attorney, Anne Preston, of the Chicago Department of Law Corporation Counsel, and propose to this Court the following joint status report of the parties:

1. The lead attorneys on the case are Blake Horwitz for the Plaintiff and Anne Preston for the Defendants. These are the attorneys that will try the case if it goes to trial.
2. Basis for federal jurisdiction: 42 U.S.C. § 1983; 28 U.S.C. §1331 and §1343(a); the Constitution of the United States; and this Court's supplementary jurisdiction powers.
3. Nature of the claims asserted in the complaint and any counterclaims: The Plaintiff alleges he was falsely arrested and criminally charged and brings claims of § 1983 false arrest, false arrest (state law claim), § 1983 excessive force, battery (state law claim), malicious prosecution (state law claim), § 1983 conspiracy, conspiracy (state law claim), an indemnity claim against City of Chicago under 745 ILCS 10/9-102, and a supplementary *respondeat superior* claim.

4. The name of any party not yet served and the circumstances regarding non-service:

All Defendants have been served and have appeared through counsel. Defendants have, pursuant to this Court's order, until March 10, 2008 to answer the complaint.

5. Principal legal issues: the probable cause standard for a false arrest claim, the proper use of force when engaging in arrest, and the elements of battery, conspiracy and malicious prosecution.

6. Principal factual issues: whether the Defendants had any basis to arrest, whether Defendant's used force against Plaintiff and if said force was used whether or not it was reasonable, and charge the Plaintiff, i.e. the Defendants' factual basis for probable cause and the Plaintiff's claimed lack thereof.

7. Whether a jury trial is expected by either party: both parties have demanded a trial by jury.

8. A short description of any discovery undertaken to date and any anticipated in the future: no discovery has occurred to date. The parties expect to use the normal discovery devices, including requests for production, interrogatories, requests for admission, and depositions. At this juncture, the parties do not anticipate exceeding the ten (10) depositions allotted by the Federal Rules of Procedure and do not anticipate needing more than the seven (7) hours allotted for each such deposition. The parties propose the following discovery schedule:

- a. Fact discovery to be completed by July 7, 2008.
- b. Plaintiff to disclose expert witnesses by August 5, 2008.
- c. Defendant to disclose expert witnesses by September 5, 2008.

9. The earliest date the parties will be ready for trial and the length of the trial: The parties believe they can be ready for trial in approximately seven months (November 3, 2008) and anticipate the trial lasting 2-3 days.

10. Whether or not the parties unanimously consent to proceed before a Magistrate Judge: the parties do not unanimously consent to proceed before a Magistrate Judge at this time.

11. The status of any settlement discussions and whether the parties request a settlement conference: Defendants have asked for a demand and Plaintiff will respond shortly.

Respectfully Submitted,

s/ Erica Faaborg
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